

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

STEVEN THOMPSON,

Plaintiff,

v.

MV TRANSPORTATION

Defendant.

Case No. 2:16-cv-01726-MMD-PAL

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE
PEGGIE A. LEEN

Before the Court is the Report and Recommendation of United States Magistrate Judge Peggie A. Leen (ECF No. 5) (“R&R” or “Recommendation”) relating to Plaintiff’s *pro se* complaint (ECF No. 1-1). Magistrate Judge Leen recommends that this action be dismissed without prejudice. (See ECF No. 5.) Plaintiff had until August 23, 2017, to file an objection. To date, no objection to the R&R has been filed.

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge’s report and recommendation, then the court is required to “make a *de novo* determination of those portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge’s report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard

1 of review employed by the district court when reviewing a report and recommendation to
2 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
3 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
4 view that district courts are not required to review "any issue that is not the subject of an
5 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then
6 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.
7 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
8 which no objection was filed).


9 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
10 determine whether to adopt Magistrate Judge Leen's R&R. The Magistrate Judge
11 recommends dismissing this action without prejudice based upon Plaintiff's failure to
12 timely file an amended complaint. (ECF No. 5.) The Court agrees and therefore and
13 adopts the Magistrate Judge's R&R in full.

14 It is therefore ordered, adjudged and decreed that the Report and
15 Recommendation of Magistrate Judge Peggie A. Leen (ECF No. 5) is accepted and
16 adopted in its entirety.

17 It is ordered that this action is dismissed without prejudice.

18 It is further ordered that the Clerk is directed to close this case and enter
19 judgment accordingly.

20 DATED THIS 23rd day of October 2017.

21
22
23 
24 _____
25 MIRANDA M. DU
26 UNITED STATES DISTRICT JUDGE
27
28